

REMARKS

Entry of the foregoing amendment is respectfully requested. The Amendment is believed to place the application in condition for allowances and is, therefore, appropriate under Rule 116. The Amendment does not raise any new issues and, thus, does not require an additional search by the Examiner. The issues raised by the amended claim 13 are the same issues raised by the presently pending claims 13 and 3.

The Amendment was not earlier presented because applicant became familiar with new grounds for rejection only after they were first set forth in the final Office Action.

By the present amendment, claim 3 is canceled, and claim 13 is amended.

Based on the foregoing amendments and the following remarks, the application is deemed to be in condition for allowance and action to that end is respectfully requested.

The Examiner rejected Claims 2-13 under 35 U.S. C. § 103 (a) as being obvious over Neamand, U.S. Patent No. 2,629,588 (Neamand), in view of Watson U.S. Patent No. 1,551,717 (Watson). It is noted that the Office action, in discussing how the combination of Neamand and Watson reads on claim 13, omits

a crucial feature of claim 13, namely, that the core diameter also tapers to the workpiece end.

It is respectfully submitted that claims 2 and 4-13 are patentable over the combination set forth in the Office Action. Specifically, claim 13 recites a point chisel in which:

- (i) the core diameter tapers toward the workpiece end of the useful region; and
- (ii) cross-sectional surfaces of the cross-section (of the tool) are similar in different cross-sectional locations (I, II, III, IV, V).

The present invention relates to a point chisel having a pointed end or a tip. Such point chisels are used for breaking concrete, hard rock, and the like. As the chisel penetrates further and further into concrete, fine particles, which are produced during breaking, form a padding that, together with air bubbles that are formed at the tip, absorb the driving energy, which significantly reduces the output. In order to achieve the desired results, the expenditure of energy should be increased that reduces the point life of the chisel, because of the thermal load, and increases the operational time.

To increase the point life of the chisel, it was proposed, as discussed in EP-0156789 and DE 199 14 522 C2 mentioned in the section “Background of the Invention”, to provide the point chisel with grooves forming a concave polygon for removing the fine particles and air bubbles. No cooling is used with chisels.

The known point chisels, such as disclosed in DE-199 14 522 C2 and EP-0156789, are an improvement over the prior chisels but still do not insure a sufficiently high output. Applicants had found out that with the point chisel core tapering toward the workpiece end of the useful region (toward the tip), the output is substantially increased due to the self-sharpening of the chisel in the useful region which results from both the outer diameter and the core diameter tapering toward the workpiece end (tip) so that in the useful region, cross-sectional surfaces are similar in different locations along the stem, and the concave polygon is retained over the service life of the chisel.

The novel features of the present invention are not disclosed or suggested in the prior art, including all of the prior art of record in this application. Considering the prior art, Neamand does not disclose a point chisel with a tip (pointed end) provided at the workpiece end of the chisel. Neamand discloses a chisel the opposite faces of which are flattened and converge to a relatively sharp edge (column 2, lines 41-43). Nor does Neamand disclose a chisel having a polygonal

shape defined by a plurality of grooves extending up to the core of the chisel. Neither is disclosed, in Neamand, a polygon with both outer diameter and the core diameter tapering toward the workpiece end.

In view of the above, it is respectfully submitted that Neamand does not make the present invention, as defined by claim 13, obvious.

Watson is not believed to be pertinent to the present invention.

The case law holds that

In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned. *In re Oetiker*, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). See also *In re Deminski*, 230 USPQ 313 (Fed. Cir. 1986); *In re Clay*, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992).

Watson is not in the field of applicant's endeavor, nor is Watson pertinent to the problems the present invention solves.

Watson relates to a drill bit which functions completely different from a chisel, and the object of Watson is to perfect the shape of the bit. Cooling grooves in Watson are incidental to the object of Watson. Moreover, the presence of

cooling grooves would dissuade one skilled in the art from considering Watson because feeding of water to a workpiece end of a tool is contrary to the operation of point chisels.

It is also noted that Watson does not disclose a core diameter that tapers to the workpiece end of the tool.

In view of the above, it is respectfully submitted that the present invention as defined by claim 13 patentably defines over the prior art, including Neamand and Watson and is, therefore, allowable.

Claims 2 and 4-11 depend on claim 13 and are likewise submitted to be allowable.

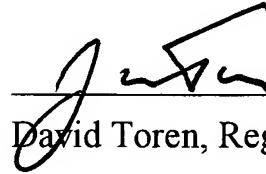
CONCLUSION

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance, and allowance of the application is respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawing be further amended or corrected in formal respects, in order to place in case in condition for final allowance, then it is respectfully requested that such amendment or correction be carried out by Examiner's amendment and the case passed issue. Alternatively, should the Examiner feel that a personal

discussion might be helpful in advancing this case to allowance, the Examiner is invited to telephone the undersigned.

Respectfully submitted,



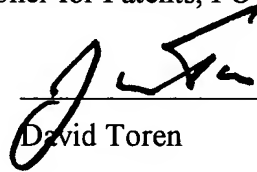
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Date: March 10, 2005

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail and addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on March 10, 2005.



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